

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 2288 of 2012 (O&M)

Date of Decision:- 27.11.2017

Anil Kumar

....Appellant

Versus

Shamsher Singh & Anr.

...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Jitender S. Chahal, Advocate, for the appellant.

Mr. Pardeep Goyal, Advocate, for
Mr. Sanjiv Pabbi, Advocate, for the Insurance Co.

AVNEESH JHINGAN, J. (Oral)

The present appeal is against award dated 05.01.2012 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short, 'the Tribunal'). Along with the appeal, application has been moved under order 41 Rule 27 for adducing additional evidence i.e. the treatment card of PGI, Chandigarh for a treatment from 22.09.2010 to 26.03.2011.

The appellant suffered head injury in a motor vehicular accident that occurred on 20.09.2010. In the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), an amount of Rs.64,800/- was awarded by the Tribunal along with interest @8% per annum.

The present appeal has been filed for enhancement of the compensation.

Learned counsel for the appellant has mainly relied upon the additional evidence having been produced along with application. Though from a first look of the said treatment card it is evident that this document was available with the appellant during the claim proceedings also.

Be that as it may, the treatment card even if taken on record would need to be proved and the respondents will have to be afforded an opportunity to rebut the same. In such circumstances, without expressing any opinion on the merits of the case and without deciding the issue whether such an evidence can be produced under Order 41 Rules 27 CPC, the matter is remitted back to the Tribunal to decide the issue of enhancement of compensation after deciding the issue of production of additional evidence.

Parties are directed to appear before the Tribunal on 21.12.2017.

It is, however, clarified that the amount already awarded by the Tribunal would not be effected by the remand proceedings.

In view of the above-said terms the present appeal is disposed of.

November 27, 2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No